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OFFICE OF PETITIONS

In re Application of :
French, et al. : DECISION ON PETITION
Application No. 09/731,624 :
Filed: December 7, 2000 :
Atty. Dkt. No.: AUS920000801US1 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed January 24, 2007.

This application was held abandoned December 10, 2005 for failure to timely submit a proper reply to the non-final Office action mailed September 9, 2005. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed December 29, 2006.

Petitioners argue that the response to the non-final Office action submitted September 26, 2005 with a duplicate submission on November 17, 2005. The reply consists of a supplemental appeal brief.

Petitioners' arguments have been considered and found convincing.

The non-final Office action mailed September 9, 2005 indicated that "[t]o avoid abandonment of the application, appellant must exercise one of the following two options: (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or, (2) request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2)."

It is noted that 37 CFR 1.193 was removed and reserved effective September 13, 2004.

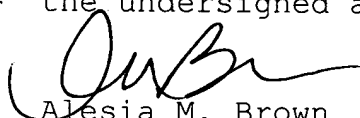
Further, to avoid abandonment after a reopening of prosecution, appellant must exercise one of the following options: (A) file a reply under 37 CFR 1.111, if the Office action is non-final; (B) file a reply under 37 CFR 1.113, if the Office action is final; or (C) initiate a new appeal by filing a new notice of appeal under 37 CFR 41.31. See, MPEP 1207.04 and 37 CFR 41.39(b)

In view of the fact that appellants did reply in a manner set forth in the non-final Office action, i.e., submission of a supplemental appeal brief, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

This application is being returned to Group Art Unit 2144 for further processing, and, if deemed necessary, mailing of a new Office communication.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



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Office of Petitions